

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

VIRGIL RIVERS BEY, : **CIVIL ACTION NO. 3:17-CV-173**
: **Petitioner** : **(Chief Judge Conner)**
: **v.** :
: **R.A. PERDUE, Superintendent FCI** :
Schuylkill, :
: **Respondent** :
:

ORDER

AND NOW, this 4th day of October, 2017, upon consideration of the report (Doc. 15) of Magistrate Judge Joseph F. Saporito, Jr., recommending that the court grant the request (Doc. 14) of *pro se* petitioner Virgil Rivers Bey (“Rivers Bey”) to withdraw his petition (Doc. 1) for writ of habeas corpus pursuant to 28 U.S.C. § 2241, wherein Judge Saporito observes that the respondent has already answered Rivers Bey’s petition, (Doc. 9), construes Rivers Bey’s instant request as a motion to voluntarily dismiss this action pursuant to Federal Rule of Civil Procedure 41(a)(2), and recommends that the court grant the motion as so construed, (see Doc. 15 at 2-4), and it appearing that neither Rivers Bey nor the respondent object to the report, see FED. R. CIV. P. 72(b)(2), and the court noting that failure to timely object to a magistrate judge’s conclusions “may result in forfeiture of *de novo* review at the district court level,” Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should “afford some level of review to dispositive legal issues raised

by the report,” Henderson, 812 F.2d 1878; see also Taylor v. Comm'r of Soc. Sec., 83 F. Supp. 3d 625, 626 (M.D. Pa. 2015) (citing Univac Dental Co. v. Dentsply Int'l, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)), in order to “satisfy itself that there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory committee notes, and, following independent review of the record, the court being in full agreement with Judge Saporito’s recommendation, and concluding that there is no clear error on the face of the record, it is hereby ORDERED that:

1. The report (Doc. 15) of Magistrate Judge Saporito is ADOPTED.
2. Rivers Bey’s request (Doc. 14) to withdraw his petition (Doc. 1) for writ of habeas corpus is CONSTRUED as a motion to voluntarily dismiss this case pursuant to Federal Rule of Civil Procedure 41(a)(2) and is GRANTED as so construed.
3. Rivers Bey’s petition (Doc. 1) for writ of habeas corpus is DISMISSED without prejudice.
4. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania